

02.03.2021
Ct. No.13
Sl. No.145
akd

W.P.A. 4983 of 2021 [via video conference]

[Bimala Rabidas -Vs- The State of West Bengal & Ors.]

Mr. Goutam Kumar Maity
Mrs. Sabita Khutia Bhunya
... .. for the petitioner

Despite service of notice, none appears on behalf of the State-respondents. Affidavit of service filed in Court today be kept with the record.

The petitioner's husband was a Panchayat Job Assistant who retired from service on 31.07.2005. The pension payment order was issued on 16.11.2006. He had completed all his pension-related formalities prior to his retirement. However, the concerned authorities delayed the gratuity and arrear pensionary benefit amount and ultimately released the same on 08.03.2007. He died on 11.11.2009.

The petitioner herein seeks interest to be paid on the gratuity and arrear pension amount for the interim period of delay in receipt of the gratuity amount and arrear pension amount. There is a considerable delay in filing the writ petition, which the petitioner seeks to justify by stating that there is no statutory period of limitation and neither parties have suffered due to this delay and, therefore, the instant petition should be allowed.

The petitioner relies upon an order in WP 17557 (W) of 2017 (***Narayan Chandra Saha -Vs.- State of West Bengal & Ors.***) wherein a co-ordinate Bench had relied upon the Supreme Court judgment in the case of ***Union of India –Vs.- Tarmen***

Singh, reported in **(2008) 8 SCC 648** on the issue of limitation relating to payment or refixation of pay or pension wherein the Apex Court had held that relief may be granted in spite of delay as it does not affect the rights of the third party.

In view of the above and after hearing the learned Counsel for the parties, I direct the Director of Pension, Provident Fund and Group Insurance, Government of West Bengal as also the concerned Treasury Officer to pay interest to the petitioner @ 8% per annum on the gratuity and arrear pension amount calculated from 01.08.2005 till the date of actual payment. Such payment is to be made within a period of eight weeks from the date of communication of this order.

With the above observations, the writ petition is disposed of without however no order as to costs.

Since no affidavit is called for, the allegations made in the writ petition are deemed to have been denied by the respondents.

Urgent photostat certified copy of this order, if applied for, be given to the parties on usual undertaking.

(Rajasekhar Mantha, J.)